



Appeal Decision

Site visit made on 22 January 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Appeal Ref: APP/D3640/C/19/3228070

Chobham Carwash, Chobham Adventure Farm, Bagshot Road, Chobham, Surrey GU24 8DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Basim Karaj against an enforcement notice issued by Surrey Heath Borough Council.
 - The enforcement notice was issued on 8 April 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the Land as a Car Wash (Sui Generis Use) and the siting of a small materials storage cabin, a larger container building and the installation of a hard standing within the green belt.
 - The requirements of the notice are to:
 1. Cease use of the land as a commercial carwash;
 2. Remove from the land the large container building and smaller materials storage cabin;
 3. Remove the installed hardstanding from the land;
 4. Remove any debris, rubble, waste, plant and machinery from the land in compliance with steps 1 to 3.
 - The period for compliance with the requirements is three (3) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be varied by:
 - deleting the words "small materials storage cabin, a larger" and substituting the word "large" in paragraph 3; and
 - deleting the words "and smaller materials storage cabin" in paragraph 5.2.
2. Subject to these variations, the enforcement notice is upheld and the appeal is dismissed. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

3. A retrospective application for "Siting of store, container store and hard standing, and use of land for car washing facility (Sui Generis)" ¹ was refused permission. It is not the subject of an appeal before me.

¹ Ref 2017/0735, registered on 14 August 2017

4. Given what the appellant says in his appeal submissions about the length of time aspects of the development have existed, he was asked to confirm whether or not he was making an appeal under ground (d) - that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice². The appellant subsequently confirmed the appeal was made only on ground (a). In any respect, I have seen nothing in the appeal papers that would lead me to conclude that the site had a continuous primary use as a car wash in the 10 years before the notice was issued, which is the relevant time limit in respect of a material change of use³.

Ground (a) and the deemed planning application

Main Issues

5. The main issues in this appeal are:

- whether the development is inappropriate development in the Green Belt;
- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the area; and
- would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate; Openness; Character and appearance

6. Built development along Bagshot Road in the vicinity of the appeal site is sporadic, particularly on the north side of the road, with green spaces and fields in some of the intervening gaps. While there are dwellings to either side of the appeal location, opposite there are hedge and tree-lined fields stretching along the north side of the road. These features contribute to a reasonably open and verdant rural character on the approach to the village of Chobham.
7. The hand car wash and valeting operation is being undertaken within and to one side of the entrance to Chobham Adventure Farm from Bagshot Road, from which it is partially screened by trees and vegetation. On its other side from the road it is largely surrounded by hard-surfaced areas used for parking associated with the Adventure Farm, which the Council say are unauthorised.
8. The appeal site is on land occupied by a former nurse with horticulture as its lawful use, notwithstanding that the appeal papers suggest that it was used to store plant hire equipment between 2014 and 2017.
9. The Council says that the change of use of the appeal development is facilitated by an area of hardstanding where cars are washed and valeted, together with a storage cabin and a larger storage container building used as a staff rest area. These single-storey metal structures are located next to a large cylindrical water tank of a similar height, present on the site for a considerable

² Section 174(2)(d) of the Act

³ Section 171B(3) of the Act

time and used for irrigation purposes at the former nursery. The appellant says that the storage cabin is actually an irrigation shed associated with the tank. This appeared to be the case on my site visit, with fixed machinery and pipes within the structure and a close association with the adjoining water tank.

10. Paragraph 146 of the National Planning Policy Framework (the Framework) says that material changes in the use of land (and engineering operations, which includes the laying of a hardstanding) should not be regarded as inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purpose of including land within it.
11. The line of vegetation between the appeal site and Bagshot Road provides partial screening only and the carwash operation, hardstanding and structures can be seen through it from the footway and from vehicles using the carriageway as they enter and leave Chobham. The hardstanding in particular is visible through the foliage for a reasonably lengthy stretch of the road, with additional attention drawn to it through movements and activity close to the other side of the vegetation associated with the vehicle washing and valeting.
12. The appellant has submitted an aerial photograph (photograph A) showing the site when in lawful use as a nursery. In the photograph, the water tank and irrigation shed appear to be situated as today with stored material positioned in the same place and of comparable scale as the current container. Therefore, I do not find that the current single-storey structures have a material effect on the openness of the site within the Green Belt relative to the underlying lawful use. However, and notwithstanding the unauthorised car parks nearby, the prominent area of hardstanding has replaced the verdant setting of the nursery to the south of the irrigation structures and it results in a hard man-made and utilitarian feature which, together with the comings and goings of vehicles thereon and their cleaning, significantly harms the sense of openness of the Green Belt. I give very limited weight to the photograph submitted (photograph B) said to show container storage when the appeal site was used for plant hire outside of its lawful use as a nursery.
13. Further, Chobham is an historic rural settlement with a conservation area and a Grade 1 listed building. The car wash activity and hardstanding, albeit partially obscured and filtered by foliage, has a negative and urbanising effect on the settlement's setting as experienced along a key approach road.
14. For all of the above reasons, the appeal development significantly harms the character and appearance of the area and the openness of the Green Belt through inappropriate development within it.

Other considerations

15. The appeal site is not a greenfield site, and has infrastructure including the water tank and irrigation shed remaining from previous development. I give this moderate weight.
16. I also give moderate weight to submissions, including from interested third parties, that the site has been used for vehicle-washing for several years notwithstanding that it would appear to have been ancillary to the primary use of the site.

17. The appellant has said that the container could be painted green. I give this limited weight as the container, for the reasons I have given, is not a significant factor in the harm I have identified.
18. The hand car wash and valeting operation provides employment and services, and I accept those services are materially different to those which can be obtained locally. I have also taken into account the Sutton Green Garden Centre appeal cited by the appellant⁴ where the Inspector (in dismissing the appeal) said that employment benefits and the provision of a community facility are undoubtedly benefits in favour of development. I agree, and give the benefits associated with the appeal development before me a moderate amount of weight.
19. The appellant says that a noise assessment report was provided with the planning application. However, it has not been provided with this appeal and in any respect noise is not a factor in the harm I have identified.

Green Belt balancing

20. Paragraph 144 of the Framework indicates that in considering any planning application, substantial weight should be given to any harm to the Green Belt. Accordingly, as I have found harm to the Green Belt I apply substantial weight in respect to it. I have also found that significant harm would be caused to the character and appearance of the area. In totality, the harm is of a magnitude which weighs very heavily against the proposal.
21. Having considered all matters raised in support of the appeal development I conclude that, collectively, they do not clearly outweigh the totality of the harm I have identified. Accordingly, very special circumstances do not exist and the proposal is contrary to the guidance in the Framework and Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012, which together seek to protect the Green Belt and respect local character and appearance.

Conclusion

22. As I am satisfied that the "smaller materials storage cabin" stated in the notice is in fact an irrigation shed that was present on site as part of the site's lawful use before the appeal development, it is excessive to require its removal. The other requirements of the notice are sufficient in achieving its apparent purpose under the Act⁵ of discontinuing the use of the land as a car wash and restoring the land to its condition before the breach of planning control took place. I am varying the notice accordingly.
23. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR

⁴ APP/A3655/C/14/2220484

⁵ Section 173(4)(a)